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March 18, 2016

JAMES D. CECCHI (1933-1995)
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Via ECF

The Honorable William J. Martini
United States District Judge
Martin Luther King Federal Building
50 Walnut Street
Newark, New Jersey 07102

Re: *In re Urethane Antitrust Litigation*
Civil Action No. 08-5169 (WJM) (MF)

Dear Judge Martini:

The Court's directions regarding the Pretrial Order in this case envisioned that counsel for Plaintiffs would serve proposed jury instructions on counsel for Dow, and that, within seven days thereafter, Dow "shall, on the face of the instructions submitted by plaintiff, set forth any objections to the proposed jury instructions and/or proposed counter-instructions." Plaintiffs served their proposed instructions on Dow in compliance with the Court's directions, but Dow, rather than marking-up Plaintiffs' proposed instructions, filed with the Court what was in effect a 97-page brief, setting forth at great length its arguments as to why it contended that the Court should reject virtually all of Plaintiffs' proposed instructions, in whole or in part, and instead adopt Dow's voluminous counter-proposals, most of which do not use Plaintiffs' proposals as even a starting point. As it now stands, Dow's arguments in support of its proposed substantive jury instructions are before the Court, but Plaintiffs' arguments are not.

Plaintiffs therefore respectfully request permission to file the attached Bench Brief to respond to Dow's arguments with respect to the proposed jury instructions.

Respectfully Submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.

/s/ James E. Cecchi

JAMES E. CECCHI

cc: All Counsel (via ECF)